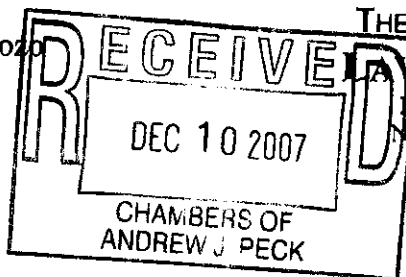


MICHAEL A. CARDOZO
Corporation Counsel



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December 10, 2007

BY FAX

Honorable Andrew J. Peck
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

*Given good to 11/18/08 (not 1/19)
so no more will be needed per the
revised 1/9 response.*

SO ORDERED:

Re: Trent Patterson v. Commissioner of Corrections, et al.
07 Civ. 8057 (LAP)(AJP)

Hon. Andrew Jay Peck
United States Magistrate Judge

BY FAX

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, newly assigned to the defense of the above-referenced matter in which the City of New York is not a named defendant.¹ While we have not received any requests for representation or otherwise have been notified that any defendants have been served in this matter, according to the Court's docket sheet, it appears that service was accepted on behalf of defendants Martin Horn (sued herein as "Commissioner of Correction") and Warden Riordan on October 30, 2007, although this information was not entered on the docket sheet until December 3, 2007. Accordingly, defendants Horn and Riordan respectfully request that their time to respond to the complaint in this action be extended until January 9, 2008.² Plaintiff is incarcerated and proceeding *pro se*; therefore, this request is made directly to

¹ This case has been assigned to Assistant Corporation Counsel Benjamin Stockman, who is not yet admitted to this Court and is handling this matter under supervision. Mr. Stockman may be reached directly at (212) 788-1177.

² There is no indication whether the other named defendants, Correction Officers Benson and Gamble, have been served with process in this matter. We have not received requests for representation from these individuals, and the docket sheet indicates that these Officers have not yet been served. Without appearing on their behalf, it is respectfully requested that, once they

Continued...

the Court. On behalf of defendants Horn and Riordan, I apologize for the tardiness of this request.

Plaintiff alleges that on May 2, 2007, he was assaulted by several inmates in the Anna M. Kross Detention Center on Rikers Island, and that correction officers failed to protect him from this assault. He further alleges that several correction officers used excessive force against him while attempting to stop the assault.

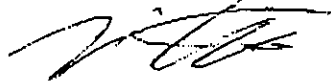
There are several reasons for seeking an enlargement of time in this matter. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. In this case, plaintiff alleges that correction officers failed to protect him from being assaulted by other inmates, and used excessive force against him. Accordingly, it is necessary for our office to acquire as much information as possible concerning this matter in order to properly assess the case and respond to the complaint. To this end, our office has forwarded to plaintiff for execution a medical release. This executed release is necessary for our office to obtain the medical records pertaining to plaintiff's alleged injury and treatment.

Further, assuming plaintiff effects proper service on Correction Officers Benson and Gamble, the extension should allow time for this office to determine, pursuant to Section 50-k of the New York General Municipal Law, and based on a review of the facts of the case, whether we may represent them. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an extension has been made in this action. Accordingly, we respectfully request that defendants' time to respond to the complaint be extended until January 9, 2008.

I thank the Court for its time and consideration of this request.

Respectfully submitted,



Michael Chestnov
Assistant Corporation Counsel
Special Federal Litigation Division

are served, the same extension be granted to them in order to ensure that their defenses are not jeopardized while representational issues are being decided.

cc: Trent Patterson, *pro se* (via First Class Mail)
97-A7563
Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902-0500

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: December 10, 2007

Total Number of Pages: 4

TO	FAX NUMBER
Benjamin Stockman, Esq. Michael Chestnov, Esq.	212-788-9776

TRANSCRIPTION:

MEMO ENDORSED 12/10/07

Extension granted to 1/8/08 (not 1/9), so the answer will be rec'd prior to the scheduled 1/9 conference.

**Copies to: Trent Patterson a/k/a Michael Howard (Mail)
Judge Loretta A. Preska**